



**Attorney General
for Northern Ireland**

Attorney General for Northern Ireland

Ninth Annual Report

2018/19

*Laid before the Northern Ireland Assembly
under section 26(3) of the Justice (Northern Ireland) Act 2002
by the First Minister and deputy First Minister*

on

5 February 2021



Attorney General for Northern Ireland

OGL

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Preface by the Attorney General for Northern Ireland

Regrettably, in this, the ninth annual report that I make as Attorney General for Northern Ireland, it can be seen that Northern Ireland still does not have the devolved government contemplated by the Northern Ireland Act 1998 to which the office I have the honour to hold is designed to contribute.

Rather than lament at length what I cannot change, I have carried on with my work during this past year and I invite members of the public to read this report on its publication by the First Minister and deputy First Minister – whenever that should occur – and to share their views on it with me.



John F Larkin QC
Attorney General for Northern Ireland

Introduction

1. The Attorney General's role as set out in the Justice (Northern Ireland) Act 2002 differs in important ways from that of other law officers in these islands. As a result of the disruption in devolved government the role, the work, and the constitutional context differ from that explored in previous reports.

2. Guardianship of the rule of law, in the context of this office, informs, is central to, and governs the discharge of, my specific duties. These specific duties normally include:
 - Serving as chief legal adviser to the Northern Ireland Executive for both civil and criminal matters that fall within the devolved powers of the Northern Ireland Assembly
 - Acting as the Executive's most senior representative in the courts
 - Discharging specific functions to protect the public interest in certain charity matters
 - Deciding whether or not to direct inquests under section 14 (1) of the Coroners Act (Northern Ireland) 1959
 - Participating in the proceedings of the Assembly to the extent permitted by its Standing Orders but not voting in the Assembly (here it is relevant to observe that no such Standing Orders have been made)
 - Appointing the Director and Deputy Director of the Public Prosecution Service for Northern Ireland
 - Producing guidance for criminal justice organisations on the exercise of their functions in a manner consistent with international human rights standards
 - Protecting the public interest in the courts, which can include both bringing proceedings as well as participating in proceedings that are already extant.

3. Plainly, the relative significance of some of these duties is reduced by the present absence of a functioning Assembly and an Executive Committee.
4. By section 22(5) of the Justice (Northern Ireland) Act 2002 my functions are exercised independently of any other person. This means, for example, that I am statutorily independent of the First Minister and deputy First Minister, the Northern Ireland Executive and the Northern Ireland Departments. Independence for the Attorney General under the 2002 Act means having sufficient material and institutional autonomy to permit the conscientious discharge of the duties of office. It would, I believe, be inconsistent with the statutory independence of the Attorney General for Northern Ireland if budgetary pressures prevented me from taking court action that I judged to be necessary in the public interest.
5. While statutory independence does serve a purpose in the present arrangements, a model of modified independence (as in Scotland) or the existence of strong conventions (as in Westminster) might also be considered for this Office in future. I continue to reflect, in dialogue with others, on how the obligation to act independently can be effectively and transparently discharged and I very much welcome the active interest of the public in this office.
6. The role of staff appointed to my office under section 22(4) of the Justice (Northern Ireland) Act 2002 is to assist me in carrying out my statutory and other functions. I am fortunate to be assisted by talented and dedicated colleagues and I thank them again for the quality of their work and commitment throughout the period covered by this report. It is a great pleasure to work with them.
7. I have, of course, no formal role to play in relation to non-devolved matters. Legal advice in relation to them is the responsibility of the

Advocate General for Northern Ireland, the Right Hon Geoffrey Cox QC MP who is also the Attorney General for England and Wales.

8. The Overview of Work detailed in the following section of this report offers some illustration of how the rule of law and legal excellence can be placed at the heart of government in Northern Ireland.

Overview of Work in 2018/19

Chief Legal Adviser to the Executive

9. During the period of this Report I have been unable to undertake this function due to the absence of an Executive Committee. However, I have continued to provide legal support and advice to several Departments.

Departmental Litigation

10. In cases of particular significance it will often be appropriate for me, or counsel instructed by this office, to represent a Minister or Department in court. During the period covered by this Report, counsel instructed by this office continued to act in the case referred to in paragraph 11 below, but no new cases were undertaken in this role due to the absence of an Executive.
11. As referred to in my last report I was instructed by the then Minister of Culture, Arts and Leisure to defend an application for judicial review in respect of the release of certain inquest and court files by the Public Record Office. The case was part-heard on 16 and 29 January 2018. Mr Justice Treacy (as he then was) directed the Northern Ireland Courts and Tribunals Service to address its involvement in the matter and as a result, it became a party to the proceedings and filed an affidavit. A further hearing took place before Lord Justice Treacy on 17 January 2019 and judgment was reserved.

Intervention in Proceedings Pursuant to Devolution Notices and Notices of Incompatibility

12. Section 79 of, and Schedule 10 to, the Northern Ireland Act 1998 make provision for the service of devolution notices on a number of

persons including the Attorney General for Northern Ireland. In broad terms the purpose of a devolution notice is to ensure that a court dealing with issues central to the interests of the devolved administration receives all necessary assistance. To this end, in appropriate cases, I will enter an appearance in the proceedings and make written and / or oral submissions to the court.

13. The Attorney General for Northern Ireland is also served with notices of incompatibility under the Human Rights Act 1998 in proceedings where a declaration of incompatibility is sought in respect of primary legislation or where the compatibility of subordinate legislation is being considered by the court. Again I will participate in the proceedings, if appropriate, and make written and / or oral submissions as necessary.
14. It was on this basis that I participated in a judicial review application brought by the Northern Ireland Human Rights Commission (“NIHRC”) against the Department of Justice in relation to the termination of pregnancy as it gave rise to a devolution issue. The applicant contended that the criminal law on abortion in Northern Ireland was incompatible with the rights protected by the Human Rights Act and sought a declaration of incompatibility under section 4 of that Act. During the period covered by this report, the NIHRC was granted permission to appeal to the Supreme Court. The Court of Appeal also referred certain devolution issues (about the ability of the NIHRC to bring the challenge) to the Supreme Court for determination pursuant to paragraph 33 of Schedule 10 to the Northern Ireland Act 1998. The appeal and reference were heard on 24-26 October 2017 and judgment was given on 7 June 2018.
15. The Supreme Court agreed with my submission that it had no jurisdiction to make a declaration of incompatibility as the NIHRC did not have the necessary standing to bring the proceedings.

16. Following the Supreme Court decision, Sarah Ewart applied for judicial review in order to make the Convention arguments which the NIHRC had been unable to make, focusing in her case on terminations in the case of pre-natal life-limiting diagnoses. I participated on the devolution issues which arose. The case was heard in the High Court in January 2019 and judgment is awaited.
17. As noted in my last report, I appeared in *Lee v Ashers Baking Company and others* in response to service of a devolution notice. As is well known, the substantive question in these proceedings was whether it is unlawful discrimination, either on grounds of sexual orientation, or on grounds of religious belief or political opinion, for a bakery to refuse to supply a cake iced with the message “Support Gay Marriage” because of the sincere religious belief of its owners that gay marriage is inconsistent with Biblical teaching and therefore unacceptable to God. My concerns focussed on provisions in the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006 and in the Fair Employment and Treatment (Northern Ireland) Order 1998 insofar as they impede or place a burden on certain forms of political or religious expression by suppliers of goods or services given the prohibition on Northern Ireland legislation discriminating on the ground of religious belief or political opinion. A procedural issue also arose as to whether the Court of Appeal should refer devolution issues raised by the Attorney General pursuant to paragraph 33 of Schedule 10 to the Northern Ireland Act to the Supreme Court.
18. The Supreme Court heard the appeal and related devolution references on 1-2 May 2018 and gave judgment on 10 October 2018. In relation to the substantive discrimination issue, the Court held that there was no discrimination because the reason for treating Mr Lee less favourably than other would-be customers was not his sexual orientation but the message he wanted to be iced on the cake. The Court also held that the Attorney General’s request to the Court

of Appeal to make a reference fell within the terms of paragraph 33, and the Court of Appeal had erred in refusing to give effect to it.

19. Judgment was given on 28 June 2018 by the Court of Appeal in a case challenging the approach to humanist ceremonies in the Marriage (Northern Ireland) Order 2003. I participated in relation to the devolution issues identified by the Court. The Court considered that Article 31 of the 2003 Order provided a basis for avoiding any discrimination by enabling the appointment of a humanist celebrant. The fact that the person solemnising the marriage is appointed pursuant to Article 31 of the 2003 Order, rather than Article 14, did not in the Court's view give rise to any difference of treatment. Accordingly, the Court allowed the appeal against the order of the High Court.
20. As indicated in my last report, I also intervened in proceedings in the Family Court in which issues arose on the question of parenthood when a child is conceived using assisted reproduction. Judgment is still awaited.
21. I was served with a devolution notice in an application for judicial review brought by the Renewable Heat Association Northern Ireland Limited and another who sought to challenge the Renewable Heat Incentive Scheme (Amendment) Regulations (Northern Ireland) 2017 on a number of grounds including, as a devolution issue, the contention that the regulations are invalid by reason that they are incompatible with Article 1 Protocol 1 of the European Convention on Human Rights. The High Court granted leave to apply for judicial review and the substantive hearing took place in June 2017. I decided not to participate in these proceedings at first instance. Mr Justice Colton gave judgment on 21 December 2017 and dismissed the application. The applicants have appealed and a hearing date in the Court of Appeal is awaited. I have made written submissions in the appeal.

22. A devolution notice and a notice of incompatibility were issued by the High Court in November 2017 in an application for judicial review brought by a victim of serious physical and sexual abuse in respect of a decision by the Criminal Injuries Compensation Appeals Panel for Northern Ireland. The panel refused the applicant's claim for criminal injuries compensation for historic step-parent abuse on the basis that she had resided in the same household as the perpetrator (often referred to as 'the same-roof rule'). Although not relevant to current claims, this rule continues to apply to some historic abuse claims. I made written submissions to the High Court and then, in May 2018, the Court of Appeal, focusing on proportionality and retrospective application of changes to the law. The Court of Appeal found in favour of the applicant.
23. As mentioned in last year's report, a devolution notice was issued in judicial review proceedings in which the applicants sought to challenge Article 6(6)(e) of the Marriage (Northern Ireland) Order 2003 on the basis that it unlawfully prevents individuals of the same sex from entering into a civil marriage. The judgment of Mr Justice O'Hara was appealed and the appeal was heard in September 2018. Over the last year further written submissions have been filed on recent judgments of the Supreme Court and a judgment from the Court of Appeal in this case is awaited.
24. Similar issues arose in proceedings brought by Petitioner X who sought a declaration that his marriage in London to a same sex partner which is recognised in law there by the Marriage (Same Sex Couples) Act 2013 is a valid and subsisting marriage under the law of Northern Ireland pursuant to Article 31 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989. Mr Justice O'Hara also gave judgment in this case on 17 August 2017 and held the Convention rights of the petitioner had not been violated. The petitioner appealed. I participated in the appeal on 26-27 February 2018. Further written submissions have been filed over the last year and judgment is awaited.

25. I may refer devolution issues to the Supreme Court where there are no current court proceedings pursuant to paragraph 34 of Schedule 10 to the Northern Ireland Act 1998. On 8 February 2018 I referred one such matter to the Supreme Court which arose from the introduction of Universal Credit: the application of a ‘two child limit’ and its impact on blended families where each partner has a child or children from previous relationships. This policy choice gives rise to questions as to whether the publication of postcode lists by the Department for Communities which commenced Universal Credit in those areas is invalid by reason of section 24 of the Northern Ireland Act 1998 as being incompatible with Articles 8, 12, 14 and Article 1 Protocol 1 ECHR. A hearing date is awaited.
26. I also referred five devolution issues to the Supreme Court in relation to decision-making by Northern Ireland Departments in the absence of an Executive after an interpretation by the Court of Appeal which limited the powers of civil servants to make decisions. After a preliminary hearing held in December 2018, the reference was adjourned pending consideration of whether the issues might arise in cases currently before the Northern Ireland courts. Some provision was also made for decision-making by senior civil servants in the absence of Ministers by Westminster legislation – the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018.

Intervention in Other Proceedings

27. When issues of importance arise, I may either initiate litigation myself or intervene in on-going litigation to protect important public interests.
28. The legislative competence of the Scottish Parliament was under scrutiny in the Supreme Court in July 2018 following a reference by the Attorney General for England and Wales of the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill. As there

was the potential for consequential interpretation of the competence of the Northern Ireland Assembly, I participated in the hearing. Judgment was given in December 2018. A number of the potential restrictive interpretations of devolved competence were rejected.

29. I am participating in a further challenge in respect of the law on abortion, “JR76”. The applicants in this case seek to challenge a criminal prosecution taken against a woman under section 59 of the Offences Against the Person Act 1861. The essential facts of the case are largely undisputed being based on admissions made, namely that the woman provided her daughter with abortion-inducing pills. My position is that this judicial review constitutes an improper collateral challenge to a criminal prosecution and lacks both procedural and substantive merit. The case does not disclose any unjustified interference with the Convention rights of either applicant. A number of interested parties made written submissions to the court. The application was heard in November 2018 before a Divisional Court and judgment is awaited.

30. In late January 2018 I was asked to consider participating in a hearing concerning the discrete issue of information-sharing post adoption. The Respondent mother sought declarations prohibiting the relevant Trust from notifying, investigating or assessing any extended family member of the Respondent mother or biological father and prohibiting the Trust from informing the child about the identity of his biological family. I argued that the declarations sought, under the High Court’s inherent jurisdiction, should not be granted on the basis that the child had the right to be informed about, and have knowledge of, his biological family. The matter was heard in June 2018 and the mother’s application was dismissed on the basis that it was in the child’s best interests to have the right to have this information about her own origins.

Appointment of Amicus Curiae and Special Counsel

31. Another aspect of my role as guardian of the rule of law is my function in appointing an *amicus curiae* or a special counsel in order to assist courts in appropriate cases.
32. An *amicus curiae* is a lawyer, usually a barrister, who is appointed to assist a court on matters of law connected with proceedings which are before the court. An *amicus curiae* is not a party to the proceedings but is appointed, at the invitation of the court, in order to assist the court by expounding the law impartially or by advancing relevant legal arguments which, due to the circumstances of the case, would not otherwise be made.
33. I appointed an *amicus* in proceedings before the Court of Appeal and subsequent proceedings before Madam Justice McBride which arose from an originating summons by a patient acting by her Controller ad Interim and Next Friend, the Official Solicitor, against her son, Michael Sherrie regarding the construction of a will and a right of residence. Counsel was appointed by me in relation to the Court of Appeal hearing which took place on 25 October 2017. The court gave judgment and remitted the case to Madam Justice McBride so that she could address two of the three determinations sought in the originating summons. Subsequently, Madam Justice McBride also requested the assistance of an *amicus*. In view of the history of this particular matter I was content for counsel already instructed to continue in this role. The hearing took place on 2 and 31 May 2018 and judgment is awaited.

Relationship with the Assembly – Legislative Process

34. My role in the legislative process combines statutory and non-statutory elements. Both elements have, as a common purpose, a

commitment to assisting with high quality law-making in Northern Ireland.

35. During the period covered by this report, the Assembly has not been sitting and accordingly (and regrettably) it was not necessary for me to scrutinise any draft legislation during this period.

Public Prosecution Service

36. It is my statutory responsibility under section 30 of the Justice (Northern Ireland) Act 2002 to appoint the Director and Deputy Director of the Public Prosecution Service as necessary. I may also convene, if necessary, a tribunal to consider removal of the Director or Deputy Director.
37. In addition to appointing the Director and Deputy Director of the Public Prosecution Service, my main responsibilities in relation to that service are as a statutory consultee of the Director on his annual report (and arranging for publication of that report) and on any amendments to the Code for Prosecutors.
38. Section 42(3) of the Justice (Northern Ireland) Act 2002 sets out the arrangements between the Attorney General and the Public Prosecution Service: the Attorney General and the Director may consult each other from time to time on any matter for which the Attorney is accountable to the Assembly. With the exception of the matters set out in paragraphs 36 and 37 above, there are no matters relating to the Public Prosecution Service for which the Attorney General is accountable to the Assembly.
39. It is worth emphasising that I do not currently have responsibility for referring unduly lenient sentences to the Court of Appeal. Neither do I have a role with respect to any prosecutorial decision to accept a plea of guilty to a lesser charge than that originally preferred.

40. I continue to believe that a gap exists in the current superintendence and accountability arrangements between the Attorney General and the Public Prosecution Service. A former Justice Minister has consulted on this matter. There is, of course, room for a variety of legitimate positions on how the superintendence balance should be struck ever since the issue was first debated in this jurisdiction in 1972¹.
41. Irrespective of how the balance of prosecutorial accountability is struck, I am determined to do all that I can to ensure that we have a Public Prosecution Service that fully meets the needs of the public in Northern Ireland. It has been a pleasure to work with the Director and Deputy Director of Public Prosecutions during the period covered by this report.

Departmental Solicitor's Office

42. Mr Hugh Widdis is the Departmental Solicitor and Head of the Government Legal Service for Northern Ireland. I have enjoyed a strong working relationship with Mr Widdis and his senior team during the period covered by this report.

Relator Actions

43. The rule of law lies at the foundations of a civilised society. As guardian of the rule of law, I have a responsibility to represent the public interest in court and to thereby ensure that all persons, institutions and entities, public and private, including the State itself, are properly accountable.
44. Where a member of the public wishes in private law proceedings to enforce (typically by injunction) a right which belongs to the public

¹ See the discussion in chapter 9 of John LL Edwards *The Attorney General, Politics and the Public Interest* (London, 1984)

as a whole rather than a right which has an exclusively private character, she or he can ask me to allow legal proceedings to be brought to assert that public right. The action that then takes place with my consent is known as a 'relator action'. The reason for involving the Attorney General in such a procedure is largely historical in nature, and it may be that some future widening of the traditional rules about the standing required by an applicant for an injunction of this type may render relator proceedings obsolete. I did not grant any relators during the period covered by this report.

Inquests

45. Under section 14(1) of the Coroners Act (Northern Ireland) 1959 I can direct a coroner to either hold an inquest into a death, if none has been held, or to hold a further inquest if one has already been held. At the core of the statutory test I apply in considering whether to direct a coroner to hold an inquest is a consideration of whether it is 'advisable' to do so. What is 'advisable' may vary considerably from case to case.
46. There are many circumstances that will often be considered as sufficient to warrant my direction. These include the existence of fraud, the improper rejection of significant evidence, irregularity or unfairness of proceedings, insufficiency of inquiry or the discovery of significant new evidence.
47. During 2018/19, I directed the Presiding Coroner to hold an inquest in 2 cases. In 22 cases I determined a fresh inquest was not advisable. 13 cases are still under consideration.
48. Many of the cases in relation to which I have been requested to exercise my power under section 14 of the 1959 Act relate to deaths which occurred in the context of the Northern Ireland Troubles. The question of whether I should direct a coroner to hold an inquest into

such a death is a decision to be exercised with regard to the circumstances of the individual case. A succession of individual decisions in such cases can readily prompt consideration of whether, and if so, how, Northern Ireland should deal with its troubled past through a succession of litigated cases.

49. I have continued to reflect on the potential capacity of an inquest to discharge the Article 2 ECHR obligations of the State in cases of deliberate killing. Given the emphasis on a criminal justice solution for such cases in the Strasbourg jurisprudence it does seem difficult to see how an inquest can ever, in itself, be a necessary or sufficient satisfaction of the Article 2 obligations.

50. The application for judicial review by Dorothy Johnstone challenged my decision not to order an inquest into the death of her father in 1988. I considered that Article 2 of the European Convention on Human Rights did not require a fresh inquest in this case and having regard to the investigation by the Police Ombudsman and the existence of current civil proceedings I did not consider an inquest to be advisable, even if the focus were to be purely on domestic factors. Leave to apply for judicial review was only granted in respect of the Article 2 issue and Mr Justice Deeny in delivering judgment of 28 March 2017 held that my decision was lawful and dismissed the application. The applicant appealed to the Court of Appeal but unfortunately she died before it could be heard. Another relative applied to take on the appeal in her place. The Court of Appeal ruled that Ms Dalton could take over the appeal. The appeal was heard on 8 October 2018 and judgment is awaited.

Charities

51. My responsibility for protecting the public interest extends specifically to the law of charities, an area in which, historically, the Attorney General has always had a central role. Where a matter is

before the Charity Tribunal, I am entitled to appear and am treated as a party for the purposes of any appeal from the Tribunal. I will normally only appear (or appeal) when there is some larger public interest at stake. I can also defend the interests of charities in proceedings before the High Court.

52. The High Court (Chancery Division) heard submissions in February 2019 on the interpretation of the Charities Act (Northern Ireland) 2008. My position is that the Charity Commission for Northern Ireland is not able to take regulatory decisions, such as the removal of trustees, through its staff acting alone (or through a non-quorate group of Commissioners outside of a designated committee). Judgment is awaited.

53. While certain provisions of the Charities Act (Northern Ireland) 1964 are still in operation, I retain a consultative and consent-giving role as regards some charity matters. This includes section 29 of the 1964 Act as regards applications to the Court where there is or is alleged to be a breach of any charitable trust or where the advice or order of the Court is required in connection with the administration of any charitable trust. I also have a consultative/consent role in relation to a number of provisions contained in the 2008 Act, including a consultative/directory role in the authorising of *ex gratia* payments by the Charity Commission and authorisation to take proceedings. I have granted authorisation in a number of applications to the Commission for *ex gratia* payments. I have also granted my consent to the taking of civil recovery proceedings by the Commission in respect of charity monies and restitution proceedings in respect of breach of trust by a former trustee of a charity. I continued to intervene in High Court proceedings involving a failed charitable bequest in a will in which I provided legal argument as to the relevant issues relating to the identification of the correct legal beneficiary. The case concluded with a settlement agreed between the various parties.

54. In cases where a donor has shown a clear intention that she or he wishes a gift to be given to charitable purposes but has failed to define the particular charity they wish to benefit with sufficient clarity and no trust has been interposed, use can be made of the Royal Sign Manual procedure which now resides with the Minister or Department for Communities.
55. I have also indicated that I wish to intervene in a number of appeals before the Charity Tribunal which have yet to be heard including an appeal against registration by the Charity Commission and an appeal against a decision not to register by the Charity Commission, both appeals raise important issues of law.

Human Rights

56. Under section 8 of the Justice (Northern Ireland) Act 2004, I am required to produce guidance for criminal justice organisations on the exercise of their functions in a manner consistent with international human rights standards. As Attorney General I also have the responsibility of amending, by order, from time to time, the list of organisations that are subject to the section 8 guidance.
57. This year I issued two sets of guidance: 1) on domestic abuse and stalking and 2) on how prosecutors should respond to disclosures of rape which have not been reported to the police. I also began work on producing guidance for police and prosecutors on the Irish language.

Contempt of Court

58. The Attorney General has a duty to protect the rights of parties to litigate in a fair and dispassionate atmosphere of objectivity. It is crucially important to maintain confidence in the administration of justice and foster a culture in which the independence of the

judiciary is both recognised and respected. This, of course, does not preclude informed comment and critique.

59. I may be asked either to consider seeking an order from the High Court restraining a potential contempt of court or else to consider bringing contempt proceedings against someone who has allegedly engaged in actions which might amount to contempt. During this year I have on 6 occasions had to consider bringing contempt proceedings in relation to concerns about potential interference with the administration of justice.

Declaration of Parentage

60. The Attorney General must be placed on notice of every application to court seeking a declaration of parentage. In 2018/19 there were 25 such applications. While it would be unusual for me to seek to intervene in such cases, every application must be carefully considered in order to decide whether issues of wider concern arise which might merit my intervention. Occasionally the facts revealed in an application make it necessary for me to refer those facts to the Police Service of Northern Ireland.

Determination of Marital Status

61. I am also a notice party in any litigation concerning declarations as to marital status under Part 5 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989. No applications of this nature were made during the period covered by this report.

Presumption of Death

62. Under section 9 of the Presumption of Death Act (Northern Ireland) 2009 the Attorney General must be served with a copy of every application to the High Court seeking a declaration that a missing

person is presumed to be dead. The Attorney General may intervene in the proceedings on any application in such manner if he thinks it necessary or expedient and argue before the Court any question in relation to the application which the Court considers it necessary to have fully argued. This year I have been given notice of two such applications; however, I have not thought it necessary to intervene.

Vexatious Litigants

63. Under section 32 of the Judicature (Northern Ireland) Act 1978 the Attorney General may ask the High Court to make an order declaring someone to be a vexatious litigant which, if such an order is granted, precludes him or her from bringing further proceedings without the leave of the High Court. No applications of this nature were made during the period covered by this report. Pursuant to my application Mr Justice Colton made one such order on 31 May 2018 against a Mr Michael Sherrie.

Mental Health

64. By Article 72 of the Mental Health (Northern Ireland) Order 1986 I may refer the case of a patient² to the Mental Health Review Tribunal. I referred one such case to the Tribunal this year.

Relations with both branches of the Legal Profession

65. During the period of this report I have continued to build and maintain good relations with both branches of the legal profession. As Attorney General I see my role with the Bar and the Solicitor profession principally as one of encouragement and support and, to that end, I have spoken at several events during the year. It is right that I acknowledge the strong sense of public spirit that I have

² As defined by Article 2(2) of the Order

observed in both branches of the legal profession and, in particular, a commitment to upholding access to justice.

66. As Attorney General I am the titular Head of the Bar and can attend meetings of the Bar Council, the Executive Council and the Benchers of the Inn of Court. I am grateful to the Chairman of the Bar, Sarah Ramsey, the Vice Chair, Bernard Brady as well as the Chief Executive, David Mulholland for the assistance they have provided me in my work with the Bar.
67. While I have no institutional relationship with the Law Society I am grateful to both its President, Suzanne Rice, and its Chief Executive, Alan Hunter, for their continued cooperation and constructive engagement with my Office.
68. I am particularly grateful to both the Bar Council and the Law Society for their valuable support, along with the Law Centre NI, for my Constitutional Law Summer School in August 2018.

Development of External Relations

69. The legal system of Northern Ireland does not exist in isolation. In addition to its obvious links with the other jurisdictions in the United Kingdom and Ireland, it can safely be said that the influence – sometimes the dominant influence – of European Union law and the law of the European Convention on Human Rights runs throughout our legal system and substantive law. It is essential that lawyers in Northern Ireland are aware not only of the formal content of EU law and ECHR law but also how other European jurisdictions develop techniques to cope with these demands. My staff are also involved in assisting government in preparing to leave the EU following the result of the June 2016 referendum, in particular through membership of the Interdepartmental Coordination Group.

Living Law Programme

70. The Living Law Programme run by my Office is aimed at raising knowledge about the importance of law, as well as generating an interest in and appreciation for the law generally. Now in its eighth year, the programme continues to thrive, and builds on the successes of previous years. It consists of three elements.
71. The first element is an enrichment programme for students from non-grammar schools with A-Level classes who may be interested in studying law or learning more about how the law operates in society. Some past participants in this element of the programme are now studying law at universities throughout the United Kingdom.
72. Throughout the year 72 pupils from 20 schools across Northern Ireland took part in this element of the Programme designed to give young people a fresh and lively introduction to law and the justice system. The programme included a series of debates, case-study analyses, a court visit, a session with the Public Prosecution Service, a session at the Northern Ireland Assembly and culminated with the pupils taking part in mock bail applications.
73. The second element is a general outreach programme to community and other groups aimed at raising public understanding about the law.
74. Supported by funding under the Executive action plan on 'Tackling Paramilitarism, Criminality and Organised Crime', I have been delivering the 'It's Your Law' programme, in partnership with The Prince's Trust. The aim of 'It's Your Law' is to promote the rule of law: supporting law and order and the justice system; and promote active citizenship in building a culture of lawfulness. The programme is aimed at young people who are not in employment or education and those in school who are at risk of exclusion and are

educationally under-achieving – with a focus on those schools / young people who are at risk of influence from paramilitary / organised crime.

75. These interactions with young people motivated me, together with the Director of Public Prosecutions, to set up a session with 22 youth and community workers in the East Belfast Network Centre. This session, in November 2018, was the first time the Attorney General and the DPP have engaged with a group such as this in a local venue. It provided an opportunity for me to deliver ‘It’s Your Law’ message and for the DPP to highlight the approach taken to young people accused of crime.
76. The third element is the provision of conferences and seminars bringing together practising lawyers, academics and policy makers for reflection on themes of general importance or topics of contemporary significance.
77. This year I held my third Constitutional Law Summer School from 8–10 August 2018. The School was hosted with the support of the Law Society of Northern Ireland, the Bar of Northern Ireland and Law Centre NI. It saw lawyers, politicians, academics, policy makers and expert speakers join me in exploring major constitutional law issues for the UK and Ireland drawing on the particular perspective of Northern Ireland. Speakers included Judge Richard A. Posner, USA; Mr Justice Richard Humphreys, Ireland; the Rt Hon James Wolfe QC, The Lord Advocate Scotland; Jeremy Miles AM, Counsel General Wales; Pamela McCormick, European Court of Human Rights; Juris Rudevskis, European Court of Human Rights; Professor Gerard-René de Groot, Netherlands; Carál Ni Chuilin MLA; Edwin Poots MLA; Richard Bullick, former Special Adviser; and Professor Grainne McKeever, Ulster University.

Miscellaneous

78. In addition to the significant themes of work outlined above, I have also dealt with a number of miscellaneous issues:

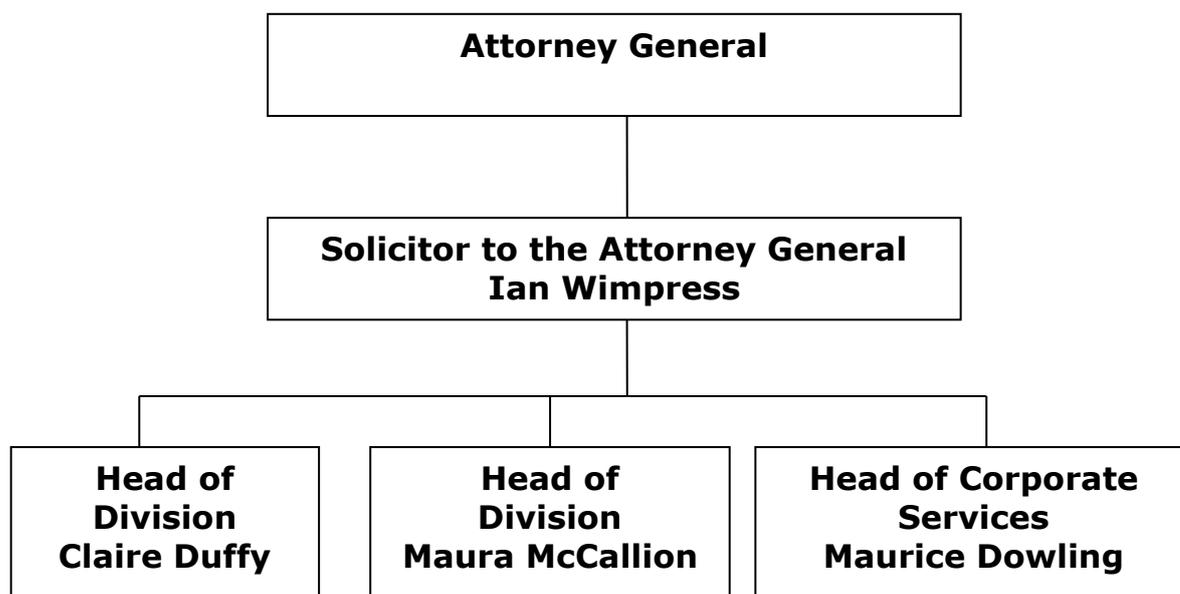
- I received 6 Departmental Consultations for consideration.
- The Office of the Attorney General provided responses to 12 Freedom of Information requests.
- I spoke at 9 external events.
- I hosted 8 work experience students.
- Lawyers from my office have participated in the work of the Court of Judicature Rules Committee, the Crown Court Rules Committee, the Criminal Justice Delivery Group and the Criminal Justice Issues Group.

Staff

79. Subject to the approval of the First Minister and deputy First Minister as to numbers, salary and other conditions of service, I may appoint staff to the Office of the Attorney General.

80. As of 31 March 2019, my office consists of 9 full time staff, including 5 lawyers, who are all members of the Northern Ireland Civil Service. During the past year I have also had the benefit of a lawyer on temporary loan from the Department of Justice.

Senior Management Structure



Corporate Services

81. By section 22(3) of the Justice (Northern Ireland) Act 2002 the Attorney General is to be funded by the First Minister and deputy First Minister acting jointly.
82. For practical administrative and economic reasons, my Office avails of the Office of the First Minister and deputy First Minister's financial and audit systems.
83. In 2018/19 the Office of the Attorney General had a budget of £1.27m. The year-end financial spend was £1.22m.
84. Robust systems and processes are in place to ensure effective corporate governance.
85. The Office website www.attorneygeneralni.gov.uk outlines the work and responsibilities of the Attorney General. It is regularly updated.

Conclusion

86. A consequence of the continued absence of devolved government is the inability to publish this report and secure for it the wide readership that I would wish. Publication of this report is, by section 26(3) and (4) of the Justice (Northern Ireland) Act 2002, a matter for the First Minister and deputy First Minister.

87. While I cannot, and would not wish to, usurp the function of publishing this report that is statutorily reserved to the First Minister and deputy First Minister, I intend to explore with colleagues ways in which I can make the work of this Office more widely known to persons who are interested in learning more about the role and work of the Attorney General for Northern Ireland.